

BILL ANALYSIS

Senate Research Center

H.B. 2431
By: Kamel (Ellis)
Criminal Justice
5-17-97
Engrossed

DIGEST

Currently, district clerks have various duties in criminal proceedings assigned by several articles of the Code of Criminal Procedure and the Election Code. H.B. 2431 would make changes to the Code of Criminal Procedure with regard to court records and would clarify a court clerk's duties in a criminal proceeding.

PURPOSE

As proposed, H.B. 2431 provides for the duties of a court clerk with respect to certain criminal matters.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 3(b), Article 11.07, Code of Criminal Procedure, to require an application for writ of habeas corpus filed after final conviction in a felony case, other than a case in which the death penalty is imposed, to be filed with the clerk of the court in which the conviction being challenged was obtained, and requires the clerk to assign the application to that court. Requires the clerk of that court to forward a copy of the application by certified mail, return receipt requested, or by personal service to the attorney representing the state in that court, who is required to answer the application not later than the 15th day after the date the copy of the application is received. Makes conforming changes.

SECTION 2. Amends Article 20.22, Code of Criminal Procedure, to delete the provision requiring the fact of a presentment of indictment by a grand jury to be entered upon the minutes of the court, but omitting the name of the defendant, unless he is in custody or under bond.

SECTION 3. Amends Section 5, Article 42.12, Code of Criminal Procedure, by adding Subsection (e), to provide that a record in the custody of the court clerk regarding a case in which a person is granted deferred adjudication is confidential only if the record has been sealed by court order or expunged under Article 55.01.

SECTION 4. Amends Sections 13(h) and (j), Article 42.12, Code of Criminal Procedure, to require the person's instructor, upon the successful completion of an educational program, to give notice to the Department of Public Safety (DPS) for inclusion in the person's driving record and to the community supervision and corrections department (department). Requires the department to then forward the notice to the court clerk for filing. Requires DPS, rather than the department, to prohibit a person from obtaining a license or permit, as provided by Section 521.344, Transportation Code, rather than Section 24(g)(2), Article 6687b, V.T.C.S., under certain circumstances. Makes conforming changes.

SECTION 5. Amends Section 16.003, Election Code, to require DPS to prepare an abstract of each felony conviction for which information is maintained in DPS's database under Chapter 60, Code of Criminal Procedure. Deletes the provision requiring the clerk of each court having felony jurisdiction to prepare an abstract of certain final judgments, and the provision requiring the abstract to be

prepared each month. Requires DPS or the institutional division of the Texas Department of Criminal Justice (division), as appropriate, to establish a periodic interval in which to prepare the abstracts. Requires DPS and the division to provide each abstract to the voter registrar of the offender's county of residence within a reasonable time and according to procedures established by DPS or the division. Deletes the provision requiring each abstract to be provided by a certain date.

SECTION 6. (a) Makes application of this Act prospective regarding Article 11.07, Code of Criminal Procedure.

(b) Makes application of this Act prospective regarding Article 20.22, Code of Criminal Procedure.

(c) Makes application of this Act prospective regarding Section 13, Article 42.12, Code of Criminal Procedure.

(d) Requires DPS and the division to take action as necessary to comply with Section 16.003, Election Code, as soon as practicable after the effective date of this Act.

SECTION 7. Effective date: September 1, 1997.

SECTION 8. Emergency clause.